

provide assistance similar to that provided to U.S. armed services personnel.

**§ 536.114 Scope for claims arising overseas under international agreements.**

(a) This section sets forth guidance on claims arising from any act or omission of soldiers or members of the civilian component of the U.S. armed services done in the performance of official duty or arising from any other act or omission or occurrence for which the U.S. armed services are responsible under an international agreement. Claims incidents arising in countries for which the SOFA requires the receiving State to adjudicate and pay the claims in accordance with its laws and regulations are subject to partial reimbursement by the United States.

(b) Claims by foreign inhabitants based on acts or omissions outside the scope of official duties are cognizable under subpart J of this part. Claims arising from nonscope acts or omissions by third parties who are not foreign inhabitants are cognizable under subpart E but not under subparts C or F of this part.

**§ 536.115 Claims procedures for claims arising overseas under international agreements.**

(a) SOFA provisions that call for the receiving State to adjudicate claims have been held to be the exclusive remedy for claims against the United States, *Aaskov v. Aldridge*, 695 F. Supp. 595 (D.D.C. 1988); *Dancy v. Department of the Army*, 897 F. Supp. 612 (D.D.C. 1995).

(b) SOFA provisions that call for the receiving State to adjudicate claims against the United States usually refer to claims by third parties brought against members of the force or civilian component. This includes claims by tourists or business travelers as well as inhabitants of foreign countries. Depending on how the receiving State interprets the particular SOFA's class of proper claimants, the receiving State may also consider claims by U.S. soldiers, civilian employees, and their family members. Chiefs of command claims services or other Army JA offices responsible for claims that arise in countries bound by SOFA or other treaty provisions requiring a receiving

State to consider claims against the United States will ensure that all claims personnel know the receiving State's policy on which persons or classes of persons are proper claimants under such provisions. When a claim is filed both with the receiving State and under either the Military Claims Act (MCA) or Foreign Claims Act (FCA), the provisions of § 536.76(h) of this part and DA Pam 27-162, paragraph 3-4a apply.

(c) When SOFA provisions provide for receiving state claims consideration, the time limit for filing such claims may be much shorter than the two years otherwise allowed under the FCA or MCA. For example, receiving state claims offices in Germany require that a claim be filed under the SOFA within three months of the date that the claimant is aware of the U.S. involvement. If the filing period is about to expire for claims arising in Germany, have the claimant fill out a claim form, make two copies, and date-stamp each copy as received by the a sending State claims office. Return the date-stamped original of the claim to the claimant with instructions to promptly file with the receiving State claims office. Keep one date-stamped copy as a potential claim. Forward one date-stamped copy of the claim to the U.S. Army Claims Service Europe (USACSEUR). This may toll the applicable German statute of limitations. Additionally, many receiving state claims offices do not require claimants to demand a sum certain. All claims personnel must familiarize themselves with the applicable receiving state law and procedures governing SOFA claims.

(d) All foreign inhabitants who file claims against the United States that fall within the receiving State's responsibility, such as claims based on acts or omissions within the scope of U.S. Armed Forces members' or civilian employees' duties, must file the claim with the appropriate receiving State office. Those U.S. inhabitants whose claims would be otherwise cognizable under the Military Claims Act (subpart C of this part) and whom the receiving State deems proper claimants under the SOFA must also file with the receiving State.

(e) A claim filed with, and considered by, a receiving State under a SOFA or other international agreement claims provision may be considered under other subparts of this part only if the receiving State denied the claim on the basis that it was not cognizable under the treaty or agreement provisions. See DA Pam 27-162, paragraph 3-4a(2), for conditions of waiver of the foregoing requirement. See also §§536.76(h) and 536.138(j) of this part. When a claimant has filed a claim with a receiving State and received payment, or the claim has been denied on the merits, such action will be the claimant's final and exclusive remedy and will bar any further claims against the United States.

**§536.116 Responsibilities as to claims arising overseas under international agreements.**

(a) Command claims services or other responsible JA offices within whose jurisdiction SOFA or other treaty provisions provide for a claim reimbursement system, and where DA has been assigned single-service responsibility for the foreign country seeking reimbursement (see §536.17) are responsible for:

(1) Establishing programs for verifying, certifying, and reimbursing claims payments. Such service or JA office will provide a copy of its procedures implementing the program to the Commander USARCS.

(2) Providing the Commander USARCS with budget estimates for reimbursements in addition to the reports required by AR 27-20, paragraph 13-7.

(3) Providing the Commander USARCS each month in which payments are made, with statistical information on the number of individual claims reimbursed, the total amount paid by the foreign government, and the total amount reimbursed by the United States.

(4) Providing the Commander USARCS with a quarterly report showing total reimbursements paid during the quarter for maneuver damage and tort claims classified according to major categories of damage determined by the Commander USARCS, and an update on major issues or activities

that could affect the reimbursement system's operation or funding.

(b) Command claims services or other responsible Army JA offices will ensure that all claims personnel within their areas of responsibility:

(1) Receive annual training on the receiving State's claims procedures, including applicable time limitations, procedures and the responsible receiving State claims offices' locations.

(2) Screen all new claims and inquiries about claims to identify those claimants who must file with the receiving State.

(3) Ensure that all such claimants are informed of this requirement and the applicable time limitation.

(4) Ensure that all applicable SOFA claims based on incidents occurring in circumstances that bring them within the United States' primary sending State jurisdiction are fully investigated.

**Subpart H—Maritime Claims**

**§536.117 Statutory authority for maritime claims.**

The Army Maritime Claims Settlement Act (AMCSA) (10 U.S.C. 4801-04, 4806, as amended) authorizes the Secretary of the Army or his designee to administratively settle or compromise admiralty and maritime claims in favor of, and against, the United States.

**§536.118 Related statutes for maritime claims.**

(a) The AMCSA permits the settlement of claims that would ordinarily fall under the Suits in Admiralty Act (SIAA), 46 U.S.C. app. 741-752; the Public Vessels Act (PVA), 46 U.S.C. app. 781-790; or the Admiralty Extension Act (AEA), 46 U.S.C. app. 740. Outside the United States the AMCSA may be used to settle admiralty claims in lieu of the Military Claims Act or Foreign Claims Act. Within the United States, filing under the AMCSA is not mandatory for causes of action as it is for the SIAA or PVA.

(b) Similar maritime claims settlement authority is exercised by the Department of the Navy under 10 U.S.C. 7363 and 7621-23 and by the Department